

**CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON**

1319 SKY HARBOR, LLC; MASTER)	
BUILDERS ASSOCIATION OF KING)	Case No. 04-3-0020
AND SNOHOMISH COUNTIES,)	
)	<i>(Sky Harbor)</i>
Petitioners,)	
)	
v.)	
)	ORDER ON MOTION FOR
CITY OF SULTAN,)	VOLUNTARY DISMISSAL
)	
Respondent.)	
_____)	

I. BACKGROUND

On July 23, 2004, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) from 1319 Sky Harbor L.L.C. and Master Builders Association of King and Snohomish Counties (**Petitioners** or **Sky Harbor/MBA**). The matter was assigned Case No. 04-3-0020, and is hereafter referred to as **Sky Harbor**. Board member Margaret Pageler is the Presiding Officer (**PO**) for this matter. Petitioners challenge the City of Sultan's (**Respondent** or **City**) adoption of Resolution 04-03 adopting the 2004 water/sewer design standards for the City of Sultan. The basis for the challenge is noncompliance with the Growth Management Act (**GMA or Act**) and the State Environmental Policy Act (**SEPA**).

On July 30, 2004, the Board issued a Notice of Hearing setting a Prehearing Conference in this matter for 10:00 a.m. on August 26, 2004.

On August 9, 2004, the Board received a Notice of Appearance for the City from Thom H. Graafstra of Keithly, Weed, Graafstra, and Bensen, Inc., P.S.

On August 26, 2004, at approximately 9:30 a.m. the Board received a Stipulation and Order for Stay of Proceedings, signed by Petitioners and the City, requesting a six-week stay of Board proceedings based on a contingent settlement agreement signed by the parties on the evening of August 25, 2004.

On August 26, 2004, the Board's Administrative Officer advised Petitioners and the City by telephone that the Presiding Officer in this case has granted a settlement extension. On August 17, 2004, the Board issued an Order Granting Settlement Extension and Amending Prehearing Order. The Order extended the Prehearing Conference date to October 12, 2004.

On October 11, 2004, the Board received a Motion for Voluntary Dismissal and Supporting Declaration of Duana T. Kolouskova. The motion was based on WAC 242-02-720(2).

II. DISCUSSION

WAC 242-02-720 states:

Any action may be dismissed by a board:

- (1) When all parties stipulate;
- (2) Upon motion of the petitioner or respondent prior to the presentation of the respondent's case;
- (3) Upon motion by the respondent alleging that petitioner has failed to prosecute the case, failed to comply with these rules, or failed to follow any order of the board, or
- (4) Upon a board's own motion for failure by the parties to comply with these rules or any order of the board.

Petitioners seek voluntary dismissal pursuant to subsection (2). Neither party has yet presented its case through briefing on the merits. The board finds that the motion for voluntary dismissal is timely filed and is therefore **granted**.

III. ORDER

This matter having come before the Board upon Petitioners' Motion for Voluntary Dismissal pursuant to WAC 242-02-720(2), the Board having considered the pleadings filed herein, it is hereby ordered that this matter is **dismissed with prejudice**.

So ORDERED this 11th day of October, 2004.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Bruce C. Laing, FAICP
Board Member

Edward G. McGuire, AICP
Board Member

Margaret A. Pageler
Board Member